

**Subject:**

RE: comprehensive red Line changes to the draft proposed rule

**From:** Chip Cameron [<mailto:fxcameo@>]

**Sent:** Monday, September 30, 2013 4:02 PM

**To:** Kolotos, John; Rory O'sullivan; Angela Peoples; Eileen Connor; Whitney Barkley; Margaret Reiter; Tom Tarantino; Kevin Jensen; Mohr, Rhonda ([rmohr@](mailto:rmohr@)); Warner, Jack; [tdalton@](mailto:tdalton@); Sandra Kinney; Jenny Rickard; Justice, Della (KYOAG); Libby DeBlasio; Ted Daywalt; Tom Kriger; Helga Greenfield; [rhiggs@](mailto:rhiggs@); Richard Heath; Glen Gabert; Nassirian, Barmak; Barbara Hoblitzell; Brian Jones; Marc Jerome; [JBerkowitz@](mailto:JBerkowitz@); Belle Wheelan Private; [nharvison@](mailto:nharvison@)

**Cc:** Raymond Testa; Mahaffie, Lynn; Wilson, Amy; charlie pou

**Subject:** comprehensive red Line changes to the draft proposed rule

All - this is a proposal from Ray Testa and is a comprehensive red line version of the draft rule text.

Chip

Negotiators,

Attached is a comprehensive red line version of the proposed regulation. This proposal was constructed in consultation with a team of advisors from the American Association of Cosmetology Schools, representing more than 1100 campuses throughout the United States. Rather than submitting a number of isolated issues with no consideration of their mutual impact, we have attempted to identify specific sections within the entire proposed regulation with concerns and recommendations that, in our opinion are absolutely essential if the regulation is to approach any degree of fairness. Much of it actually relies somewhat on the rationale that was offered by the Department in the publication of the initial rule while considering the court's decision which struck down the rule. We believe the rule as proposed is seriously flawed and abandons many arguments and rationale the Department used to defend the original rule, while changing most of the metrics solely for the purpose of rushing to publish and making the rule more difficult.

As per the Department's request, we have offered very specific regulatory language that fits within the framework of the proposed rule. The changes we recommend are designed to minimize some of the unintended consequences of establishing metrics that are outside the control of the institution and serve only to create obstacles to choice and access to education. As currently proposed the rule establishes bright line benchmarks that will be easily met by programs that serve higher income independent students and dependent students from all income levels, while setting the bar disproportionately high for institutions and programs that serve lower income independent students and high percentages of female and students with dependent children.

We are still working on an additional component that would address the most glaring flaw in the negotiations that have transpired thus far; i.e. the application of a reasonable sliding scale that would adjust metrics based on student population characteristics. While the administration along with a majority of FA experts have frequently cited the need for such an approach the rule as proposed completely ignores the indisputable variance that accompanies debt levels and actual behavior of students after graduation based overwhelmingly on socioeconomic factors. We expect to have a proposal designed to take this principle into account and to further mitigate unintended consequences.

The attached document has been shared with all the negotiators from the private sector and is being submitted without objection by any of my colleagues. However, because of the compressed nature of the time to submit, the fact that other proposals are forthcoming and that other negotiators from the sector have valuable input to share, we are prepared to make necessary changes that may come to light between now and our next session. Thank you for your consideration.

Regards,  
Ray Testa